

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

David Earl Wattleton,

File No. 24-cv-3936 (ECT/JFD)

Plaintiff,

v.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

Luke Turner, *Olmstead County Election
Commissioner,*

Defendant.

Magistrate Judge John F. Docherty issued a Report and Recommendation on December 5, 2024. ECF No. 6. No party has objected to that Report and Recommendation, and it is therefore reviewed for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). The recommendation to dismiss the case without prejudice will be accepted, but on mootness grounds. *See Whitfield v. Thurston*, 3 F.4th 1045, 1048 (8th Cir. 2021) (“Since *Arkansas AFL-CIO*, we have repeatedly applied the same-complaining-party requirement in election cases.”); *see also FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 462 (2007) (requiring “a reasonable expectation that the same complaining party will be subject to the same action again”). The Complaint alleges no facts plausibly showing that Mr. Wattleton may be deprived of an absentee ballot in future elections. And the Complaint seeks no (not even nominal) damages. *See Van Wie v. Pataki*, 267 F.3d 109, 115 n.4 (2d Cir. 2001).

Therefore, based on the foregoing, and on all the files, records, and proceedings herein, **IT IS ORDERED THAT:**

1. The Report and Recommendation [ECF No. 6] is **ACCEPTED** to the extent it recommends the case be dismissed without prejudice.
2. Plaintiff David Earl Wattleton's Complaint [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE** under 28 U.S.C. § 1915(e)(2) for lack of subject-matter jurisdiction.
3. Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs [ECF No. 2] is **DENIED** as moot.
4. Plaintiff's Motion for Leave to Submit Evidence [ECF No. 4] is **DENIED** as moot.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 7, 2025

s/ Eric C. Tostrud
Eric C. Tostrud
United States District Court